

### **REMARKS**

In response to the Office Action mailed September 20, 2010, Applicants respectfully request reconsideration. Claims 1, 4, 7-9, 13-17, 20-22, 29-33 and 44-50 were previously pending in this application. Claims 17 and 32 are amended herein. Claims 5-6 and 22 have been canceled. Claims 49-51 have been added. As a result, claims 1, 4, 7-9, 13-17, 20-21, 29-33 and 44-51 are pending for examination with claims 1, 17, 32, and 33 being independent claims. No new matter has been added.

#### **I. Claim Rejections under 35 U.S.C. §101**

Claim 32 was rejected under 35 U.S.C. §101 for allegedly being directed to non-statutory subject matter. In particular, the Office Action alleges that claim 32 covers “transitory propagating signals” (Office Action, page 3). Applicants respectfully disagree.

By themselves, transitory signals are merely fleeting, intangible changes in energy states of the materials through which the signals pass. Based on the plain meaning of the word “store,” a signal itself, as a fleeting, intangible change in an energy state, cannot “store” anything. The plain meaning of a storage medium (and the way one of ordinary skill in the art would understand the term) is a medium in which information can be stored. As a transitory signal cannot “store,” then a transitory signal cannot be a “storage medium.” Claim 32 is therefore directed only to statutory subject matter.

Withdrawal of the rejections of claim of 32 under §101 is respectfully requested.

#### **II. Claim Rejections under 35 U.S.C. §102**

Independent claim 33 was rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Japanese Patent Publication No. JP 2000-196934 (“Yoshihiro”). Applicants respectfully disagree as Yoshihiro does not teach or suggest all limitations of claim 33. For example, Yoshihiro does not teach or suggest “a controller ... to determine whether to capture an image using the camera based at least in part on whether a change in a level of the ambient light is above a threshold,” as recited by claim 33.

Yoshihiro describes a technique for programming a camera to automatically capture an image (Yoshihiro, Abstract). Yoshihiro describes that previous techniques included setting the camera to capture an image after a few seconds, giving the camera operator only those few

seconds to run into the camera's view to be in the picture (¶0003). Using Yoshihiro's technique, the camera instead monitors a designated portion of the image to determine whether that portion has changed (¶0006). The designated portion may be the size of a hand or a handkerchief (¶0041). When the camera operator walks into the view of the camera and shakes his hand or makes some other movement, the luminosity values in that portion of the image change, the camera detects the change, and the camera captures the image after a short delay (¶0016; ¶¶0040-0042; FIG. 3).

Thus, Yoshihiro describes a camera that monitors light received by the camera corresponding to a designated portion of the camera's view, such as the hand of a subject.

In rejecting claim 33, the Office Action alleges that determining whether to capture an image based on changes in light values for a designated portion of the screen is the same as determining whether to capture an image based on whether "a change in a level of the ambient light is above a first threshold," as recited by claim 33 (Office Action, page 3, citing to ¶¶0040-0042 of Yoshihiro). This is not correct. Based on the plain meaning of the term "ambient" and the way the term is used in the Specification, a change in light in one designated portion of the camera's view, as in Yoshihiro, is not a change in "ambient light." "Ambient" characteristics, like ambient light, are characteristics of an environment. In Yoshihiro's case, then, the ambient light would be the environmental light in the area of the camera.

Yoshihiro does not describe anything regarding determining whether to capture an image based on changes in an ambient light. In fact, Yoshihiro does not describe that ambient light may change in any way or that a determination is made regarding changes in ambient light.

Accordingly, Yoshihiro does not teach or suggest a digital media player comprising "a controller ... to determine whether to capture an image using the camera based at least in part on whether a change in a level of the ambient light is above a threshold."

For at least these reasons, claim 33 patentably distinguishes over Yoshihiro and should be allowed. Claim 46 depends from claim 33 and should be allowed for at least the same reasons. Withdrawal of the rejections of claims 33 and 46 under §102 is respectfully requested.

III. Claim Rejections under 35 U.S.C. §103

Independent claims 1, 17, and 32 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Yoshihiro in view of U.S. Patent No. 4,901,096 (“Lemelson”). Applicants respectfully disagree.

For reasons that should be appreciated from the foregoing, Yoshihiro does not teach or suggest determining whether to capture an image based on a change in ambient light. The Office Action does not suggest that Lemelson describes determining whether to capture an image based on a change in ambient light.

Therefore, even if one of ordinary skill in the art would have modified Yoshihiro based on Lemelson in the manner alleged by the Office Action, the resulting system would have met the limitations regarding:

- a controller to determine whether to capture an image using the camera based at least in part on “whether a change in a level of the ambient light monitored by the at least one environmental sensors is above a first threshold,” as recited by claim 1;
- detecting whether a capture condition is satisfied by comparing a change in the at least one ambient condition, including ambient light, to at least one second threshold, and determining whether to capture an image based at least in part on whether the capture condition is satisfied, as recited by claim 17; and
- “detecting whether a capture condition is satisfied by monitoring at least one ambient condition with at least one environmental sensor, the at least one ambient condition including ambient light,” and “determining whether to capture an image based at least in part on whether the capture condition is satisfied,” as recited by claim 32.

For at least these reasons, independent claims 1, 17, and 32 patentably distinguish over the proposed modification of Yoshihiro based on Lemelson and should be allowed. Claims 4, 7-9, 13-16, 20-21, 29-31, 44-45, and 47-48 and new dependent claims 49-51 depend from one of claims 1, 17, and 32 and should be allowed for at least the same reasons. Withdrawal of the rejections of claims 1, 4, 7-9, 13-17, 20-21, 29-32, 44-45, and 47-48 under §103 is respectfully requested.

IV. General Comments on Dependent Claims

As each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicants believe that arguing the allowability of each of the dependent claims individually is unnecessary at this time. Applicants do not, however, necessarily concur with the interpretation of the dependent claims as set forth in the Office Action, nor do Applicants concur that the basis for the rejection of any of the dependent claims is proper. Therefore, Applicants reserve the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.


If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. M1103.70797US00.

Dated: \_\_\_\_\_

12/14/10

Respectfully submitted,

By \_\_\_\_\_

  
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